

LEGISLATIVE COUNCIL BRIEF

Bills of Exchange Ordinance

(Chapter 19)

The Hongkong and Shanghai Banking Corporation Limited Ordinance

(Chapter 70)

Loans (Asian Development Bank) Ordinance

(Chapter 271)

Hang Lung Bank (Acquisition) Ordinance

(Chapter 345)

Standard Chartered Asia Limited Ordinance

(Chapter 1136)

Lloyds Bank (Merger) Ordinance

(Chapter 1137)

Royal Bank of Scotland Ordinance

(Chapter 1138)

Deutsche Bank (Merger) Ordinance

(Chapter 1142)

Rainier International Bank (Transfer of

Hong Kong Undertaking) Ordinance

(Chapter 1144)

First Pacific Bank Limited Ordinance

(Chapter 1146)

Dao Heng Bank Limited Ordinance

(Chapter 1152)

Middle East Finance International Limited

(Transfer of Undertaking) Ordinance

(Chapter 1154)

Bank of Tokyo-Mitsubishi Ordinance

(Chapter 1160)

The Bank of Tokyo-Mitsubishi (Merger of

Subsidiaries) Ordinance

(Chapter 1161)

ADAPTATION OF LAWS (NO.9) BILL 1998

INTRODUCTION

At the meeting of the Executive Council on 3 November 1998, the Council ADVISED and the Chief Executive ORDERED that the Adaptation of Laws (No.9) Bill 1998 should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

2. Article 160 of the Basic Law states that -

“Upon the establishment of the Hong Kong Special Administrative Region, the laws previously in force in Hong Kong shall be adopted as laws of the Region except for those which the Standing Committee of the National People’s Congress declares to be in contravention of this Law. If any laws are later discovered to be in contravention of this Law, they shall be amended or cease to have force in accordance with the procedure as prescribed by this Law.”

Article 8 of the Basic Law states that -

“The laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained, except for any that contravenes this Law, and subject to any amendment by the legislature of the Hong Kong Special Administrative Region.”

3. On 23 February 1997, the Standing Committee of the National People’s Congress published a decision on the treatment of laws previously in force in Hong Kong. It provides, among other things, that the existing Hong Kong laws are to be adopted as laws of the Hong Kong Special Administrative Region and these laws shall, unless the context otherwise requires, be construed in accordance with specified principles of interpretation. These interpretative principles are included in the Hong Kong Reunification Ordinance (Ord. No. 110 of 1997) and are now incorporated as section 2A and Schedule 8 in the Interpretation and General Clauses Ordinance (Cap. 1). However, although the Interpretation and

General Clauses Ordinance laid down how terminology inconsistent with the Basic Law or with the status of Hong Kong as a Special Administrative Region of the People's Republic of China are to be construed, it is considered unacceptable to retain such terminology in our laws. Accordingly, we now need to introduce further legislation to effect the necessary textual amendments.

THE BILL

4. Most of the proposed amendments are terminological changes. References to saving the rights of "Her Majesty, Her Heirs or Successors" will be amended to saving the rights of "the Central People's Government or the Government of the Hong Kong Special Administrative Region", based on item 10 of Annex 3 of the Decision of the Standing Committee of the National People's Congress on Treatment of the Laws Previously in Force in Hong Kong in accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

COMMENCEMENT

5. The Bill provides that, subject to Article 12 of the Hong Kong Bill of Rights, the adaptations when passed into law shall take effect retrospectively, as from the date of the establishment of the Hong Kong Special Administrative Region.

PUBLIC CONSULTATION

6. Since the amendments are essentially straightforward adaptations, consultation with the public is not considered necessary.

HUMAN RIGHTS IMPLICATIONS

7. The Department of Justice advises that the Bill is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT

8. The amendments in the Bill do not affect the current binding effect of the existing provisions of the various Ordinances covered by the Bill.

FINANCIAL AND STAFFING IMPLICATIONS

9. There are no financial or staffing implications arising from the Bill.

LEGISLATIVE TIMETABLE

10. The legislative timetable is as follow

Publication in the Gazette	13 November 1998
First Reading and commencement of Second Reading debate	25 November 1998
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

PUBLICITY

11. A press release will be issued on 11 November 1998.

ENQUIRIES

12. Enquiries can be directed to Mr Eddie Cheung, Assistant Secretary for Financial Services (Tel.:2528 9076).

Financial Services Bureau

11 November 1998

ADAPTATION OF LAWS (NO. 9) BILL 1998

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A BILL

To

Adapt certain Ordinances to bring them into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People's Republic of China.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Adaptation of Laws (No. 9) Ordinance 1998.

2. Commencement

(1) This Ordinance shall be deemed to have come into operation on 1 July 1997.

(2) Subsection (1) shall be subject to Article 12 of the Hong Kong Bill of Rights set out in Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383).

3. Amendment of Ordinances

The Ordinances specified in the Schedules are amended in the manner indicated in those Schedules.

SCHEDULE 1

[s. 3]

BILLS OF EXCHANGE ORDINANCE

1. Section 4(1) of the Bills of Exchange Ordinance (Cap. 19) is amended by repealing “the Colony” where it twice appears and substituting “Hong Kong”.
2. Section 72 is amended by repealing “the Colony” wherever it appears and substituting “Hong Kong”.
3. Section 89(4) is amended by repealing “the Colony” and substituting “Hong Kong”.

SCHEDULE 2

[s. 3]

THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED
ORDINANCE

1. Section 18 of The Hongkong and Shanghai Banking Corporation Limited Ordinance (Cap. 70) is amended by repealing “Her Majesty the Queen, Her Heirs or Successors” and substituting “the Central People’s Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws”.

SCHEDULE 3

[s. 3]

LOANS (ASIAN DEVELOPMENT BANK) ORDINANCE

1. Section 3(3) of the Loans (Asian Development Bank) Ordinance (Cap. 271) is amended by repealing “立法局” and substituting “立法會”.

2. Section 6(2) is amended by repealing “Governor” and substituting “Chief Executive”.
3. Section 7 is amended by repealing “立法局” and substituting “立法會”.

SCHEDULE 4

[s. 3]

HANG LUNG BANK (ACQUISITION) ORDINANCE

1. Section 9(1) of the Hang Lung Bank (Acquisition) Ordinance (Cap. 345) is amended by repealing “Governor in Council” and substituting “Chief Executive in Council”.

SCHEDULE 5

[s. 3]

STANDARD CHARTERED ASIA LIMITED ORDINANCE

1. Section 15 of the Standard Chartered Asia Limited Ordinance (Cap. 1136) is amended by repealing “Her Majesty the Queen, Her Heirs or Successors” and substituting “the Central People’s Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws”.

SCHEDULE 6

[s. 3]

LLOYDS BANK (MERGER) ORDINANCE

1. Section 15 of the Lloyds Bank (Merger) Ordinance (Cap. 1137) is amended by repealing “Her Majesty the Queen, Her Heirs or Successors” and substituting “the Central People’s Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws”.

SCHEDULE 7

[s. 3]

ROYAL BANK OF SCOTLAND ORDINANCE

1. Section 21 of the Royal Bank of Scotland Ordinance (Cap. 1138) is amended by repealing “Her Majesty the Queen, Her Heirs or Successors” and substituting “the Central People’s Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws”.

SCHEDULE 8

[s. 3]

DEUTSCHE BANK (MERGER) ORDINANCE

1. Section 15 of the Deutsche Bank (Merger) Ordinance (Cap. 1142) is amended by repealing “Her Majesty the Queen, Her Heirs or Successors” and substituting “the Central People’s Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws”.

SCHEDULE 9

[s. 3]

RAINIER INTERNATIONAL BANK (TRANSFER OF HONG KONG UNDERTAKING)
ORDINANCE

1. Section 14(a) of the Rainier International Bank (Transfer of Hong Kong Undertaking) Ordinance (Cap. 1144) is amended by repealing “Her Majesty the Queen, Her Heirs or Successors” and substituting “the Central People’s Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws”.

SCHEDULE 10

[s. 3]

FIRST PACIFIC BANK LIMITED ORDINANCE

1. Section 16 of the First Pacific Bank Limited Ordinance (Cap. 1146) is amended by repealing “Her Majesty the Queen, Her Heirs or Successors” and substituting “the Central People’s Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws”.

SCHEDULE 11

[s. 3]

DAO HENG BANK LIMITED ORDINANCE

1. Section 17 of the Dao Heng Bank Limited Ordinance (Cap. 1152) is amended by repealing “Her Majesty the Queen, Her Heirs or Successors” and substituting “the Central People’s Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws”.

SCHEDULE 12

[s. 3]

MIDDLE EAST FINANCE INTERNATIONAL LIMITED (TRANSFER OF
UNDERTAKING) ORDINANCE

1. Section 17(1) of the Middle East Finance International Limited (Transfer of Undertaking) Ordinance (Cap. 1154) is amended by repealing “Her Majesty the Queen, Her Heirs or Successors” and substituting “the Central People’s Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws”.

SCHEDULE 13

[s. 3]

BANK OF TOKYO-MITSUBISHI ORDINANCE

1. Section 18 of the Bank of Tokyo-Mitsubishi Ordinance (Cap. 1160) is amended by repealing “Her Majesty the Queen, Her Heirs or Successors” and substituting “the Central People’s Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws”.

SCHEDULE 14

[s. 3]

THE BANK OF TOKYO-MITSUBISHI (MERGER OF SUBSIDIARIES) ORDINANCE

1. Section 20(1) of the Bank of Tokyo-Mitsubishi (Merger of Subsidiaries) Ordinance (Cap. 1161) is amended by repealing “Her Majesty the Queen, Her Heirs or Successors” and substituting “the Central People’s Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws”.

Explanatory Memorandum

The purpose of this Bill is to adapt certain Ordinances to bring them into conformity with the Basic Law and with Hong Kong's status as a Special Administrative Region of the People's Republic of China (clause 3 and Schedules 1 to 14).

2. The Ordinances adapted and their respective Schedule numbers under the Bill are -

Bank of Tokyo-Mitsubishi Ordinance (Cap. 1160)	Schedule 13
Bills of Exchange Ordinance (Cap. 19)	Schedule 1
Dao Heng Bank Limited Ordinance (Cap. 1152)	Schedule 11
Deutsche Bank (Merger) Ordinance (Cap. 1142)	Schedule 8
First Pacific Bank Limited Ordinance (Cap. 1146)	Schedule 10
Hang Lung Bank (Acquisition) Ordinance (Cap. 345)	Schedule 4
Lloyds Bank (Merger) Ordinance (Cap. 1137)	Schedule 6
Loans (Asian Development Bank) Ordinance (Cap. 271)	Schedule 3
Middle East Finance International Limited (Transfer of Undertaking) Ordinance (Cap. 1154)	Schedule 12
Rainier International Bank (Transfer of Hong Kong Undertaking) Ordinance (Cap. 1144)	Schedule 9

Royal Bank of Scotland Ordinance (Cap. 1138)	Schedule 7
Standard Chartered Asia Limited Ordinance (Cap. 1136)	Schedule 5
The Bank of Tokyo-Mitsubishi (Merger of Subsidiaries) Ordinance (Cap. 1161)	Schedule 14
The Hongkong and Shanghai Banking Corporation Limited Ordinance (Cap. 70)	Schedule 2

3. The Bill also provides that the adaptations when passed into law shall take effect retrospectively from the date of establishment of the Hong Kong Special Administrative Region (clause 2).